IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.147 OF 2003

Murlidhar Narayanrao Rajghadkar ..Petitioner.
Vs.
Shantabai Ramsunderlal Shrivastav & Ors. ..Respondents.

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Mr. S.D. Rupwate for the Petitioner.
Mr. F.N. Kazi Niyaz Ahmed for Respondent Nos.1 to 3.

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CORAM: DR. D.Y. CHANDRACHUD, J.

3rd July, 2006.

P.C. :

The decree for eviction has been passed on the ground that (i) the tenant has made a permanent unauthorized construction; (ii) the tenant has acquired suitable alternate residential accommodation and (iii) that the landlord requires the premises bona fide for his own use and occupation. There are concurrent findings of fact by both the Courts below. The only point which is pressed in this Petition is that the Kalyan Dombivli Municipal Corporation has issued a notice on 17th July, 2002 (Exh. F to the Petition) in which it is alleged that the entire structure admeasuring 3.5 mtrs. X 6 mtrs. is unauthorized. Hence, it has been submitted that the suit itself was not maintainable and that

the decree for eviction cannot be sustained. At the hearing of the Petition, counsel appearing for the Petitioner states that the Petitioner would move the Additional District Judge, Kalyan in an application for reviewing the impugned order dated 16th April, 2002, but prayed that some protection may be granted to the Petitioner for a short while in the meantime. The Petition is accordingly dismissed as withdrawn with liberty to move an application for review. In order to facilitate the filing of a review petition and without the expression of any opinion by this Court on the merits of the case, this Petition is dismissed as withdrawn. In the event that an application for review is filed within a period of two weeks from today, the Additional District Judge is requested to dispose of the application within a period of four weeks thereafter.